

REFERENCE TITLE: tax credit; early childhood education

State of Arizona  
House of Representatives  
Fifty-second Legislature  
Second Regular Session  
2016

## **HB 2685**

Introduced by  
Representatives Bolding, Cardenas: Boyer, Livingston, Norgaard, Otondo

AN ACT

AMENDING SECTIONS 15-1251 AND 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1088.01; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1182; RELATING TO INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-1251, Arizona Revised Statutes, is amended to  
3 read:

4 15-1251. State block grant for early childhood education  
5 program: evaluation

6 A. The state block grant for early childhood education program is  
7 established in the ~~state board~~ DEPARTMENT of education CONSISTING OF MONIES  
8 APPROPRIATED BY THE LEGISLATURE AND CONTRIBUTIONS RECEIVED FOR THAT PURPOSE  
9 PURSUANT TO SECTIONS 43-1088.01 AND 43-1182. The purpose of the program is  
10 to promote improved pupil achievement by providing flexible supplemental  
11 funding for early childhood programs, including preschool programs for  
12 economically disadvantaged children, ~~and programs that serve all public~~  
13 ~~school pupils statewide who are in kindergarten programs and grades one, two~~  
14 ~~and three~~ WHO ARE THREE, FOUR AND FIVE YEARS OF AGE.

15 B. Funding for the program for each fiscal year shall be allocated  
16 based on the number of pupils ~~in kindergarten programs and grades one, two~~  
17 ~~and three~~ in each charter school or school district who ~~were eligible for~~  
18 ~~free lunches during the prior fiscal year under the national school lunch and~~  
19 ~~child nutrition acts (42 United States Code sections 1751 through 1785)~~ ARE  
20 THREE, FOUR AND FIVE YEARS OF AGE AND WHOSE FAMILY INCOME DOES NOT EXCEED ONE  
21 HUNDRED THIRTY-THREE PERCENT OF THE FEDERAL POVERTY GUIDELINES ESTABLISHED  
22 ANNUALLY BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES. Any  
23 charter school or school district that did not determine for the prior fiscal  
24 year ~~if~~ THE NUMBER OF its pupils ~~in kindergarten programs and grades one, two~~  
25 ~~and three were eligible for free lunches under the national school lunch and~~  
26 ~~child nutrition acts~~ WHO ARE THREE, FOUR AND FIVE YEARS OF AGE AND WHOSE  
27 FAMILY INCOME DOES NOT EXCEED ONE HUNDRED THIRTY-THREE PERCENT OF THE FEDERAL  
28 POVERTY GUIDELINES shall receive funding for the program in the current  
29 fiscal year based on the number of its pupils ~~in kindergarten programs and~~  
30 ~~grades one, two and three who would have been eligible for free lunches in~~  
31 ~~the prior fiscal year according to the statewide kindergarten programs and~~  
32 ~~grades one, two and three~~ WHO ARE THREE, FOUR AND FIVE YEARS OF AGE AND WHOSE  
33 FAMILY INCOME DOES NOT EXCEED ONE HUNDRED THIRTY-THREE PERCENT OF THE FEDERAL  
34 POVERTY GUIDELINES IN COMPARISON WITH THE SAME eligibility average for all  
35 school districts and charter schools collectively for the prior fiscal year.  
36 ~~Notwithstanding this section, a school district or charter school with an~~  
37 ~~average daily membership of more than six hundred pupils in kindergarten~~  
38 ~~programs and grades one, two and three in the prior fiscal year shall have~~  
39 ~~participated in the national school lunch and child nutrition acts free~~  
40 ~~lunches program in the prior fiscal year to be eligible for program funding~~  
41 ~~in the current fiscal year.~~

42 C. A school district or charter school that devotes part or all of its  
43 program funding to preschool programs shall comply with all of the following  
44 requirements:

1           1. ENSURE THAT PROGRAM FUNDING ONLY SUPPLEMENTS, AND DOES NOT  
2 SUPPLANT, THE EXISTING PROGRAM CAPACITY OF THE SCHOOL DISTRICT OR CHARTER  
3 SCHOOL.

4           ~~1-~~ 2. Restrict the preschool program only to preschool children  
5 ~~eligible for free or reduced price lunches under the national school lunch~~  
6 ~~and child nutrition acts~~ WHO ARE THREE, FOUR AND FIVE YEARS OF AGE AND WHOSE  
7 FAMILY INCOME DOES NOT EXCEED ONE HUNDRED THIRTY-THREE PERCENT OF THE FEDERAL  
8 POVERTY GUIDELINES.

9           ~~2-~~ 3. Allow participating pupils to receive preschool services only  
10 from a public, federally funded or private child care provider, each of which  
11 shall be licensed by the department of health services and ~~each of which,~~  
12 ~~beginning in fiscal year 1999-2000, also shall be~~ accredited by a state board  
13 of education approved organization that provides accreditation for preschool  
14 programs.

15           ~~3-~~ 4. Provide all federally funded or private child care providers  
16 located within the school district or within ten miles of the charter school  
17 with information necessary for them to participate in the program, including  
18 names and addresses of children selected for participation and of their  
19 parents or guardians.

20           ~~4-~~ 5. Provide all parents or guardians of children selected for the  
21 program with a list of licensed federally funded or private child care  
22 providers located within the school district or within ten miles of the  
23 charter school and explain to parents or guardians that they may choose to  
24 have their child receive services under the program from any provider on the  
25 list if that provider agrees to participate.

26           ~~5-~~ 6. Allow at least fifty ~~per-cent~~ PERCENT of pupils selected for  
27 the program to receive preschool services from a federally funded or private  
28 child care provider of their parent's or guardian's own choosing.

29           ~~6-~~ 7. Allow any eligible child care provider located within the  
30 school district or within ten miles of the charter school to participate in  
31 the program if it is willing to provide services at a unit cost similar to  
32 that paid to other providers in the area under the program.

33           ~~7-~~ 8. Limit the use of contracts with federally funded and private  
34 child care providers to financial agreements pertaining to numbers of  
35 children to be served, hours of service to be provided per child, payment  
36 rates and other financial aspects of the program.

37           ~~8-~~ 9. Limit to five ~~per-cent~~ PERCENT the amount of block grant monies  
38 that may be used locally for program administration.

39           ~~9-~~ D. THE DEPARTMENT OF EDUCATION SHALL pay THE GRANTS TO  
40 participating federally funded ~~and~~ PROVIDERS, private child care providers  
41 AND SCHOOLS in a timely manner BASED ON NECESSARY INFORMATION PROVIDED BY THE  
42 SUCCESSFUL APPLICANTS. GRANTS MAY NOT EXCEED ONE HUNDRED FIFTY THOUSAND  
43 DOLLARS PER YEAR TO ANY SINGLE PROVIDER OR SCHOOL.

44           E. NOTWITHSTANDING SECTION 15-161, ANY PRIVATE PROVIDER THAT RECEIVES  
45 A BLOCK GRANT FOR THE PURPOSES OF THIS SECTION IS SUBJECT TO OVERSIGHT BY THE

1 DEPARTMENT OF EDUCATION AS NECESSARY TO ADMINISTER AND ENSURE THE SUCCESS AND  
2 INTEGRITY OF THE BLOCK GRANT PROGRAM UNDER THIS SECTION.

3 F. THE DEPARTMENT OF EDUCATION SHALL ADOPT WRITTEN POLICIES,  
4 PROCEDURES AND GUIDELINES THAT ARE CONSISTENT WITH THIS SECTION AND NECESSARY  
5 TO IMPLEMENT THE STATE BLOCK GRANT FOR EARLY CHILDHOOD EDUCATION PROGRAM.

6 G. THE DEPARTMENT OF EDUCATION MAY USE UP TO TWO PERCENT OF THE MONIES  
7 RECEIVED FROM CONTRIBUTIONS AND APPROPRIATIONS EACH YEAR TO ADMINISTER THE  
8 BLOCK GRANT PROGRAM UNDER THIS SECTION.

9 ~~D.~~ H. The legislative council shall conduct a programmatic evaluation  
10 of the state block grant for early childhood education program every three  
11 years. For this evaluation, the staff of legislative council shall develop  
12 outcome measures to indicate the effectiveness of the early childhood  
13 education program. The department of education shall assist the staff of  
14 legislative council in collecting any information necessary to complete the  
15 evaluation.

16 Sec. 2. Section 43-222, Arizona Revised Statutes, is amended to read:

17 43-222. Income tax credit review schedule

18 The joint legislative income tax credit review committee shall review  
19 the following income tax credits:

20 1. For years ending in 0 and 5, sections 43-1079.01, 43-1087, 43-1088,  
21 43-1089.04, 43-1167.01 and 43-1175.

22 2. For years ending in 1 and 6, sections 43-1074.02, 43-1083,  
23 43-1083.02, 43-1085.01, 43-1088.01, 43-1164.02, 43-1164.03, 43-1182 and  
24 43-1183.

25 3. For years ending in 2 and 7, sections 43-1073, 43-1079, 43-1080,  
26 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1090,  
27 43-1164, 43-1167, 43-1169, 43-1176 and 43-1181.

28 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168,  
29 43-1170 and 43-1178.

30 5. For years ending in 4 and 9, sections 43-1076, 43-1076.01,  
31 43-1081.01, 43-1083.01, 43-1083.04, 43-1084, 43-1162, 43-1162.01, 43-1164.01,  
32 43-1164.05, 43-1170.01 and 43-1184 and, beginning in 2019, sections  
33 43-1083.03 and 43-1164.04.

34 Sec. 3. Title 43, chapter 10, article 5, Arizona Revised Statutes, is  
35 amended by adding section 43-1088.01, to read:

36 43-1088.01. Credit for contributions to block grant for early  
37 childhood education

38 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2015, A  
39 CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR VOLUNTARY CASH  
40 CONTRIBUTIONS BY THE TAXPAYER DURING THE TAXABLE YEAR TO THE DEPARTMENT OF  
41 EDUCATION FOR THE PURPOSES OF THE STATE BLOCK GRANT FOR EARLY CHILDHOOD  
42 EDUCATION PROGRAM AS PROVIDED BY SECTION 15-1251.

43 B. THE AMOUNT OF THE CREDIT IS THE AMOUNT PAID BY THE TAXPAYER DURING  
44 THE TAXABLE YEAR, BUT NOT MORE THAN:

1           1. TWO HUNDRED DOLLARS FOR A TAXPAYER FILING AS A SINGLE INDIVIDUAL OR  
2 A HEAD OF HOUSEHOLD.

3           2. FOUR HUNDRED DOLLARS FOR A MARRIED COUPLE FILING A JOINT RETURN.

4           C. A HUSBAND AND WIFE WHO FILE SEPARATE RETURNS FOR A TAXABLE YEAR IN  
5 WHICH THEY COULD HAVE FILED A JOINT RETURN MAY EACH CLAIM ONLY ONE-HALF OF  
6 THE TAX CREDIT THAT WOULD HAVE BEEN ALLOWED FOR A JOINT RETURN.

7           D. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY DEDUCTION  
8 PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE CODE AND TAKEN FOR STATE TAX  
9 PURPOSES.

10          E. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER  
11 THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS  
12 TITLE, THE TAXPAYER MAY CARRY THE UNUSED AMOUNT OF THE CREDIT FORWARD FOR NOT  
13 MORE THAN FIVE CONSECUTIVE TAXABLE YEARS.

14          F. FOR THE PURPOSES OF THIS SECTION, A CONTRIBUTION FOR WHICH A CREDIT  
15 IS CLAIMED AND THAT IS MADE ON OR BEFORE THE FIFTEENTH DAY OF THE FOURTH  
16 MONTH FOLLOWING THE CLOSE OF THE TAXABLE YEAR MAY BE APPLIED TO EITHER THE  
17 CURRENT OR PRECEDING TAXABLE YEAR AND IS CONSIDERED TO HAVE BEEN MADE ON THE  
18 LAST DAY OF THAT TAXABLE YEAR.

19          Sec. 4. Title 43, chapter 11, article 6, Arizona Revised Statutes, is  
20 amended by adding section 43-1182, to read:

21          43-1182. Credit for contributions to block grant for early  
22 childhood education

23          A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2015, A  
24 CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR THE AMOUNT OF  
25 VOLUNTARY CASH CONTRIBUTIONS BY THE TAXPAYER DURING THE TAXABLE YEAR TO THE  
26 DEPARTMENT OF EDUCATION FOR THE PURPOSES OF THE STATE BLOCK GRANT FOR EARLY  
27 CHILDHOOD EDUCATION PROGRAM AS PROVIDED BY SECTION 15-1251.

28          B. THE DEPARTMENT:

29           1. MAY NOT ALLOW TAX CREDITS UNDER THIS SECTION THAT EXCEED IN THE  
30 AGGREGATE A TOTAL OF TEN MILLION DOLLARS IN ANY FISCAL YEAR.

31           2. SHALL PREAPPROVE TAX CREDIT AMOUNTS UNDER THIS SECTION.

32           3. SHALL ALLOW THE TAX CREDITS UNDER THIS SECTION ON A FIRST COME,  
33 FIRST SERVED BASIS.

34          C. FOR THE PURPOSES OF SUBSECTION B, PARAGRAPH 2 OF THIS SECTION,  
35 BEFORE MAKING A CONTRIBUTION TO THE DEPARTMENT OF EDUCATION, THE TAXPAYER  
36 MUST NOTIFY THE DEPARTMENT OF EDUCATION OF THE TOTAL AMOUNT OF CONTRIBUTIONS  
37 THAT THE TAXPAYER INTENDS TO MAKE TO THE DEPARTMENT OF EDUCATION. BEFORE  
38 ACCEPTING THE CONTRIBUTION, THE DEPARTMENT OF EDUCATION SHALL REQUEST  
39 PREAPPROVAL FROM THE DEPARTMENT OF REVENUE FOR THE TAXPAYER'S INTENDED  
40 CONTRIBUTION AMOUNT. THE DEPARTMENT OF REVENUE SHALL PREAPPROVE OR DENY THE  
41 REQUESTED AMOUNT WITHIN TWENTY DAYS AFTER RECEIVING THE REQUEST FROM THE  
42 DEPARTMENT OF EDUCATION. IF THE DEPARTMENT OF REVENUE PREAPPROVES THE  
43 REQUEST, THE DEPARTMENT OF EDUCATION SHALL IMMEDIATELY NOTIFY THE TAXPAYER  
44 THAT THE REQUESTED AMOUNT WAS PREAPPROVED BY THE DEPARTMENT OF REVENUE. IN  
45 ORDER TO RECEIVE A TAX CREDIT UNDER THIS SECTION, THE TAXPAYER MUST MAKE THE

1 CONTRIBUTION TO THE DEPARTMENT OF EDUCATION WITHIN TWENTY DAYS AFTER  
2 RECEIVING NOTICE FROM THE DEPARTMENT OF EDUCATION THAT THE REQUESTED AMOUNT  
3 WAS PREAPPROVED. IF THE DEPARTMENT OF EDUCATION DOES NOT RECEIVE THE  
4 PREAPPROVED CONTRIBUTION FROM THE TAXPAYER WITHIN THE REQUIRED TWENTY DAYS,  
5 THE DEPARTMENT OF EDUCATION SHALL IMMEDIATELY NOTIFY THE DEPARTMENT OF  
6 REVENUE, AND THE DEPARTMENT OF REVENUE SHALL NO LONGER INCLUDE THIS  
7 PREAPPROVED CONTRIBUTION AMOUNT WHEN CALCULATING THE LIMIT PRESCRIBED IN  
8 SUBSECTION B, PARAGRAPH 1 OF THIS SECTION.

9 D. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER  
10 THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS  
11 TITLE, THE TAXPAYER MAY CARRY THE UNUSED AMOUNT OF THE CREDIT FORWARD FOR NOT  
12 MORE THAN FIVE CONSECUTIVE TAXABLE YEARS.

13 E. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A  
14 PARTNERSHIP AND STOCKHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361  
15 OF THE INTERNAL REVENUE CODE, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE  
16 CREDIT ALLOWED UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL  
17 OF THE CREDITS ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD  
18 HAVE BEEN ALLOWED A SOLE OWNER.

19 F. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY DEDUCTION  
20 PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE CODE AND TAKEN FOR STATE TAX  
21 PURPOSES.

22 Sec. 5. Purpose

23 Pursuant to section 43-223, Arizona Revised Statutes, the legislature  
24 enacts sections 43-1088.01 and 43-1182, Arizona Revised Statutes, as added by  
25 this act, to encourage private taxpayer contributions to fund the state block  
26 grant for early childhood education.

27 Sec. 6. Retroactivity

28 This act applies retroactively to taxable years beginning from and  
29 after December 31, 2015.